

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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ROBERTO DURAND,

Petitioner,

v.

CLARK COUNTY DISTRICT
COURTS,

Respondent.

Case No. 3:19-cv-00744-MMD-CLB

ORDER

Pro se Petitioner Roberto Durand submitted a pauper application without a habeas petition or other pleading on December 16, 2019. (ECF No. 1.) On December 18, 2019, the Court dismissed the case without prejudice because it was improperly commenced. (ECF No. 3.) Durand appealed, and the Ninth Circuit Court of Appeals denied Durand a certificate of appealability. (ECF No. 8.)

On December 5, 2022, Durand filed a proposed order in this closed case requesting “safekeeping.” (ECF No. 15.) In his request, Durand explained that his safety was not being protected, he was being denied medical care and educational programming, and there were issues with discipline. (*Id.*) Durand “order[ed] the Court to take action.” (*Id.*) Because it was not entirely clear what Durand was requesting and because Durand’s request was not styled as a motion, the Court ordered that it would not take any action on Durand’s “safekeeping” request, noting that it appeared that his issues lie in a civil-rights action under 42 U.S.C. § 1983. (ECF No. 16.) Durand appealed the Court’s denial. (ECF No. 17.) On January 3, 2023, the Ninth Circuit Court of Appeals remanded this case to the Court “for the limited purpose of granting or denying a certificate of appealability.” (ECF No. 19.)

1 Under 28 U.S.C. § 2253(c)(2), a certificate of appealability may issue only when
2 the petitioner “has made a substantial showing of the denial of a constitutional right.”
3 Applying this standard, the Court finds that a certificate of appealability is unwarranted
4 because Durand’s issues outlined in his proposed order do not appear to lie in this closed
5 habeas corpus action. Accordingly, it is therefore ordered that a certificate of appealability
6 is denied as to the denial of Durand’s proposed order (ECF Nos. 15, 16).

7 DATED THIS 4th Day of January 2023.

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12 MIRANDA M. DU
13 CHIEF UNITED STATES DISTRICT JUDGE
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